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BY

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14 CLARENCE C. FARMER, JR.,
15 Derivatively On Behalf of QUESTCOR
16 PHARMACEUTICALS, INC.,

17 Plaintiff,

18

19 vs.

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21 DON M. BAILEY, MICHAEL H.
22 MULROY, STEPHEN L. CARTT,
23 DAVID YOUNG, VIRGIL D.
24 THOMPSON, MITCHELL J. BLUTT,
25 NEAL C. BRADSHAW, STEPHEN C.
26 FARRELL, LOUIS E. SILVERMAN
27 and SCOTT M. WHITCUP,

28 Defendants,

29

30 - and -

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32 QUESTCOR PHARMACEUTICALS,
33 INC., a California Corporation,

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35 Nominal Party.

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Case No. SACV 12 - 02019 DOC (RNBx)

VERIFIED SHAREHOLDER
DERIVATIVE COMPLAINT FOR
BREACH OF FIDUCIARY DUTY,
GROSS MISMANAGEMENT,
ABUSE OF CONTROL, AND
UNJUST ENRICHMENT

NATURE OF THE ACTION

1
2 1. Plaintiff Clarence C. Farmer, Jr. ("Plaintiff"), by and through his
3 undersigned attorneys, hereby submits this Verified Shareholder Derivative Complaint
4 for Breach of Fiduciary Duty, Gross Mismanagement, Abuse of Control, and Unjust
5 Enrichment (the "Complaint") for the benefit of nominal defendant Questcor
6 Pharmaceuticals, Inc. ("Questcor" or the "Company") against certain members of its
7 Board of Directors (the "Board") and executive officers seeking to remedy
8 defendants' breaches of fiduciary duties and unjust enrichment.

9 2. According to its public filings, Questcor is a biopharmaceutical company
10 that provides prescription drugs for the treatment of multiple sclerosis, nephrotic
11 syndrome, and infantile spasms indications. It primarily offers H.P. Acthar Gel
12 ("Acthar"), an injectable drug for the treatment of acute exacerbations of multiple
13 sclerosis ("MS") in adults; to induce a diuresis or a remission of proteinuria in the
14 nephrotic syndrome without uremia of the idiopathic type or that due to lupus
15 erythematosus; and as monotherapy for the treatment of infantile spasms in infants
16 and children under two years of age. The company's H.P. Acthar Gel also focuses on
17 rheumatology-related conditions, including collagen diseases and rheumatic disorders.
18 In addition, it offers Doral for the treatment of insomnia. The company sells its
19 Acthar primarily to specialty pharmacies; and Doral to pharmaceutical wholesalers.

20 3. Throughout the relevant time period, defendants issued materially false
21 and misleading statements regarding the Company's business and financial results.
22 Specifically, defendants disseminated false and misleading statements about the
23 effectiveness of Acthar as a treatment for MS and nephrotic syndrome, making it
24 impossible for the public to gain a meaningful or realistic understanding of the drug's
25 prospects and market success.

26 4. As a result of defendants' false statements, Questcor's stock traded at
27 artificially inflated prices, reaching a relevant time period high of \$57.64 per
28 share on July 9, 2012.

1 5. On September 19, 2012, Citron Research ("Citron") reported that Aetna
2 Inc. ("Aetna"), one of the nation's largest insurers, had recently revised its policy
3 concerning Acthar, which would severely limit coverage of Questcor's primary drug.
4 Aetna had engaged in a review of the 19 indications for which the U.S. Food and Drug
5 Administration ("FDA") had approved Acthar. Based upon its findings, Aetna
6 determined that clinical research supported only one of the 19 indications. In Aetna's
7 clinical policy bulletin issued in connection with its review, Aetna reported that
8 studies suggested that the drug is only "medically necessary" for West syndrome, a
9 rare condition that causes infantile spasms, and not for other indications, such as MS,
10 which are treated with steroids. Typically, Aetna only reimburses for drugs when they
11 are deemed medically necessary. According to an Aetna spokesperson, "Our
12 previous position was that this was a last-resort treatment. . . We now state that it is
13 not medically necessary because there is no clinical evidence that the drug is more
14 effective than steroids."

15 6. On this news, Questcor's stock plummeted \$24.17 per share to close at
16 \$26.35 per share on September 19, 2012, a one-day decline of 48%.

17 7. Then, on September 24, 2012, defendants caused the Company to
18 announce in a Form 8-K filed with the SEC that the U.S. government had initiated an
19 investigation into the Company's promotional practices.

20 8. On this news, Questcor's stock dropped another \$11.05 per share to close
21 at \$19.08 per share on September 24, 2012, a one-day decline of 37%.

22 9. The true facts, which were known by the defendants but concealed from
23 the investing public, were as follows:

24 (a) Defendants lacked clinical evidence to support the use of Acthar
25 for indications other than infantile spasms;

26 (b) Defendants had engaged in questionable tactics to promote the sale
27 and use of Acthar in the treatment of MS and nephrotic syndrome; and
28

1 (c) Defendants lacked a reasonable basis to make positive statements
2 about the Company or its outlook, including statements about the effectiveness of and
3 potential market growth for Acthar.

4 10. As a result of defendants' false and misleading statements, Questcor's
5 stock traded at artificially inflated levels. However, after the above revelations seeped
6 into the market, the Company's shares were hammered by massive sales, sending
7 them down over 67% from their relevant time period high.

8 11. Further, as a result of defendants' breaches, the price of the Company's
9 stock still has not recovered and currently trades for around \$24 per share.

10 **JURISDICTION AND VENUE**

11 12. This Court has jurisdiction over this action pursuant to 28 U.S.C.
12 §1332(a)(2) in that Plaintiffs and defendants are citizens of different states and/or
13 countries and the matter in controversy exceeds \$75,000.00, exclusive of interests and
14 costs. This Court has supplemental jurisdiction over the state law claims asserted
15 herein pursuant to 28 U.S.C. §1367(a). This action is not a collusive one to confer
16 jurisdiction on a court of the United States which it would not otherwise have.

17 13. Venue is proper in this district because a substantial portion of the
18 transactions and wrongs complained of herein, including defendants' primary
19 participation in the wrongful acts detailed herein, occurred in this district. One or
20 more of the defendants either resides in or maintains executive offices in this district,
21 and defendants have received substantial compensation in this district by engaging in
22 numerous activities and conducting business here, which had an effect in this district.
23 Additionally, nominal defendant Questcor is headquartered in this district.

24 **THE PARTIES**

25 14. Plaintiff is a shareholder of Questcor and has continuously held Questcor
26 stock since April 2011. Plaintiff is a citizen of Pennsylvania.

27 15. Nominal defendant Questcor is a California corporation with its
28 executives offices located at 1300 Kellogg Drive, Suite D, Anaheim, CA 92807.

1 According to its public filings, the Company provides prescription drugs for the
2 treatment of multiple sclerosis, nephrotic syndrome, and infantile spasms indications.

3 16. Defendant Don M. Bailey ("Bailey") has served as the Chief Executive
4 Officer ("CEO") and President of the Company since November 2007. In addition,
5 defendant Bailey served as the Interim President of the Company from May 2007 to
6 November 2007. Further, defendant Bailey has served as a director of the Company
7 since May 2006. Upon information and belief, defendant Bailey is a citizen of
8 California.

9 17. Defendant Michael H. Mulroy ("Mulroy") has served as the Chief
10 Financial Officer ("CFO") of Company since January 2011. Upon information and
11 belief, defendant Mulroy is a citizen of California.

12 18. Defendant Stephen L. Cartt ("Cartt") has served as the Chief Operating
13 Officer ("COO") of Company since March 2005. Upon information and belief,
14 defendant Cartt is a citizen of California.

15 19. Defendant David Young ("Young") has served as the Chief Scientific
16 Officer ("CSO") of the Company since October 2009. Upon information and belief,
17 defendant Young is a citizen of California.

18 20. Defendant Virgil D. Thompson ("Thompson") has served as a director of
19 the Company since January 1996. In addition, defendant Thompson has served as a
20 member of the Board's Audit Committee (the "Audit Committee") and as Chairman
21 of the Board during the relevant time period. Further, defendant Thompson has
22 served as a member of the Board's Compliance Committee (the "Compliance
23 Committee") during the relevant time period. Upon information and belief, defendant
24 Thompson is a citizen of California.

25 21. Defendant Mitchell J. Blutt ("Blutt") has served as a director of the
26 Company since July 2010. In addition, defendant Blutt has served as a member of the
27 Audit Committee during the relevant time period. Upon information and belief,
28 defendant Blutt is a citizen of New York.

1 22. Defendant Neal C. Bradsher ("Bradsher") has served as a director of the
2 Company since March 2004. Upon information and belief, defendant Bradsher is a
3 citizen of New York.

4 23. Defendant Stephen C. Farrell ("Farrell") has served as a director of the
5 Company since November 2007. In addition, defendant Farrell has served as the
6 Chairman of the Audit Committee during the relevant time period. Further, defendant
7 Farrell has served as a member of Compliance Committee during the relevant time
8 period. Upon information and belief, defendant Farrell is a citizen of Florida.

9 24. Defendant Louis E. Silverman ("Silverman") has served as a director of
10 the Company since December 2009. Upon information and belief, defendant
11 Silverman is a citizen of California.

12 25. Defendant Scott M. Whitcup ("Whitcup") has served as a director of the
13 Company since February 2012. Upon information and belief, defendant Whitcup is a
14 citizen of California.

15 26. Collectively, defendants Bailey, Mulroy, Cartt, Young, Thompson, Blutt,
16 Bradsher, Farrell, Silverman, and Whitcup shall be referred to herein as the
17 "Defendants."

18 27. Collectively, defendants Thomson, Blutt, and Farrell shall be referred to
19 herein as the "Audit Committee Defendants."

20 28. Collectively, defendants Whitcup, Farrell, and Thompson shall be
21 referred to herein as the "Compliance Committee Defendants."

22 **DEFENDANTS' DUTIES**

23 29. By reason of their positions as officers, directors, and/or fiduciaries of
24 Questcor and because of their ability to control the business and corporate affairs of
25 Questcor, Defendants owed Questcor and its shareholders fiduciary obligations of
26 good faith, loyalty, and candor, and were and are required to use their utmost ability to
27 control and manage Questcor in a fair, just, honest, and equitable manner. Defendants
28 were and are required to act in furtherance of the best interests of Questcor and its

1 shareholders so as to benefit all shareholders equally and not in furtherance of their
2 personal interest or benefit. Each director and officer of the Company owes to
3 Questcor and its shareholders the fiduciary duty to exercise good faith and diligence in
4 the administration of the affairs of the Company and in the use and preservation of its
5 property and assets, and the highest obligations of fair dealing.

6 30. Defendants, because of their positions of control and authority as
7 directors and/or officers of Questcor, were able to and did, directly and/or indirectly,
8 exercise control over the wrongful acts complained of herein. Because of their
9 advisory, executive, managerial, and directorial positions with Questcor, each of the
10 Defendants had knowledge of material non-public information regarding the
11 Company.

12 31. To discharge their duties, the officers and directors of Questcor were
13 required to exercise reasonable and prudent supervision over the management,
14 policies, practices and controls of the Company. By virtue of such duties, the officers
15 and directors of Questcor were required to, among other things:

16 (a) Exercise good faith to ensure that the affairs of the Company were
17 conducted in an efficient, business-like manner so as to make it possible to provide the
18 highest quality performance of their business;

19 (b) Exercise good faith to ensure that the Company was operated in a
20 diligent, honest and prudent manner and complied with all applicable federal and state
21 laws, rules, regulations and requirements, and all contractual obligations, including
22 acting only within the scope of its legal authority; and

23 (c) When put on notice of problems with the Company's business
24 practices and operations, exercise good faith in taking appropriate action to
25 correct the misconduct and prevent its recurrence.

26 32. Pursuant to the Audit Committee's Charter, the members of the Audit
27 Committee are required, *inter alia*, to:

28

1 (a) Review and discuss the Company's quarterly financial statements
2 with management;

3 (b) Discuss with management the Company's earnings press releases;

4 (c) Discuss with management any of the following, which are brought
5 to the Audit Committee's attention: correspondence from or with regulators or
6 governmental agencies, any employee complaints or any published reports that raise
7 material issues regarding the Company's financial statements, financial reporting
8 process or accounting policies;

9 (d) Discuss with management and outside counsel any legal matters
10 brought to the Audit Committee's attention that could reasonably be expected to have
11 a material impact on the Company's financial statements;

12 (e) Discuss with management the Company's significant financial risk
13 exposures and the actions management has taken to limit, monitor or control such
14 exposures; and

15 (f) Regularly report to, and review with, the Board any issues that
16 arise with respect to the quality or integrity of the Company's financial statements, the
17 Company's compliance with legal or regulatory requirements, or any other matter the
18 Audit Committee determines is necessary or advisable to report to the Board.

19 33. Pursuant to the Compliance Committee's charter, the members of the
20 Compliance Committee are required, *inter alia*, to:

21 (a) Review and oversee the Company's Compliance Program,
22 including but not limited to, evaluating its effectiveness and receiving updates about
23 the activities of the Chief Compliance Officer and other compliance personnel;

24 (b) Review the status of the Company's compliance with relevant
25 laws, regulations, and internal procedures (e.g., compliance with U.S. federal
26 healthcare program requirements; compliance with U.S. pharmaceutical product
27 promotional rules and regulations, including with respect to "off-label" and other
28 product promotional activities, unapproved product uses, fair balance, product safety

1 claims, and product superiority or efficacy claims; product manufacturing quality
2 control; clinical studies quality control; and required reporting to the Food and Drug
3 Administration);

4 (c) Review and evaluate internal reports and external data to assess
5 whether there are significant concerns regarding the Company's regulatory and/or
6 compliance practices; and

7 (d) Report at least annually to the Board on (i) the state of the
8 Company's compliance functions, (ii) relevant compliance issues involving the
9 Company of which the Committee has been made aware, including a summary of the
10 results of any compliance investigations conducted by the Company, (iii) any potential
11 patterns of non-compliance identified within the Company, (iv) any significant
12 disciplinary actions against any compliance personnel, and (v) any other issues that
13 may reflect any systemic or widespread problems in compliance or regulatory matters
14 exposing the Company to substantial compliance risk.

15 SUBSTANTIVE ALLEGATIONS

16 A. Background of the Company

17 34. According to its public filings, Questcor is a single product company,
18 with Acthar accounting for nearly all of its revenue. Acthar, a highly specialized,
19 low-volume, premium-priced drug, was originally approved by the FDA in 1952. The
20 injectable hormone has a broad label, as it has been approved by the FDA for use in
21 19 indications. Acthar is a first-line treatment for infantile spasms, a rare, terrible
22 seizure disorder that affects around 1,500 babies a year in the U.S. Acthar was
23 approved for the treatment of MS relapse in 1978. It was used extensively as a
24 treatment for MS in the 1970s, but was largely abandoned in the 1980s after
25 corticosteroids came on the market, as the powerful steroids proved to be a superior
26 alternative to Acthar.

27 35. According to its public filings, Questcor acquired the rights to Acthar in
28 2001 for \$100,000. At the time, Acthar was almost exclusively being used to treat

1 infantile spasms. In 2007, Defendants caused Questcor to file an application with the
2 FDA to obtain orphan drug status for Acthar for the treatment of infantile spasms.
3 The FDA grants orphan status to a drug that treats a disease affecting fewer than
4 200,000 people. Orphan status provides a company with seven years of marketing
5 exclusivity. At the same time Defendants filed the Company's application with the
6 FDA, Questcor raised the price of Acthar from \$1,650 per vial to \$23,000 per vial,
7 which represents an overnight increase of over 1300%. As a result of the significant
8 price increase, 2007 was the first year in the history of the drug that Acthar made
9 money. The FDA approved Questcor's orphan drug status application in October
10 2010.

11 36. Soon after Defendants enacted the tremendous price hike, Questcor,
12 under Defendants' direction, embarked on an aggressive strategy to transform Acthar
13 into a blockbuster drug. Defendants' sole strategic goal was to promote Acthar and
14 expand the use of the drug for other indications, initially focusing on using Acthar for
15 the treatment of MS beginning at the end of 2007, followed by nephrotic syndrome in
16 the first quarter of 2011. Questcor markets Acthar as a second line treatment for MS
17 after patients are not responsive to steroids and markets Acthar as a first-line treatment
18 for nephrotic syndrome

19 37. As a result of Defendants' new strategy, the Company grew
20 tremendously, with its net sales increasing from \$49.8 million in 2007 to \$218.2
21 million in 2011. The main source of the Company's growth is the use of Acthar in the
22 treatment of MS and nephrotic syndrome. Currently, infantile spasms, the condition
23 for which it received orphan drug status, accounts for only 6%-10% of the Company's
24 revenues.

25 **B. Defendants' False and Misleading Statements**

26 38. On April 26, 2011, Defendants caused the Company to issue a press
27 release announcing its first quarter 2011 financial results. Defendants reported net
28

1 income of \$11.2 million, or \$0.17 diluted earnings per share ("EPS"), and net sales of
2 \$36.8 million for the first quarter of 2011. The release stated in part:

3 "Our strategy to expand the sales force is clearly paying off," said
4 Don M. Bailey, President and CEO of Questcor. "Paid MS prescriptions
5 are up sharply from last quarter. March was a particularly strong month
6 and this momentum has continued so far in April. We believe that Acthar
7 is filling an increasingly important role in the treatment of exacerbations
8 associated with MS and, looking forward, we expect to continue to grow
9 sales in this important therapeutic area."

10 Mr. Bailey added, "We are also encouraged by the early positive
11 results from our small, dedicated nephrology sales team, which initiated
12 selling efforts at the beginning of March. The number of nephrologists

13 39. After issuing its first quarter 2011 financial results on April 26, 2011,
14 Defendants hosted a conference call for analysts, media representatives and investors.
15 During the call, Defendants reiterated the record financial results reported in the
16 Company's press release and defendant Mulroy discussed the Company's financial
17 performance in depth. Defendants Bailey and Cartt further presented prepared
18 statements at the conference call and represented as follows:

19 [BAILEY:] In summary, we are off to a very good start this year
20 as we continue to execute our straightforward strategy to sell more
21 Acthar. Our decision to expand the MS sales force is clearly paying off.
22 Also, our nephrotic syndrome sales force is having some early success.

23 * * *

24 We believe this MS sales performance reflects the strong,
25 underlying demand for Acthar. This growth in demand is being driven by
26 the increasing productivity of our expanded sales force. We believe net
27 sales in the MS market are now about 60% of total Acthar net sales.

28 * * *

1 [CARTT:] Our expanded promotional activities directed to
2 neurologists generated significant growth in Acthar prescriptions for MS
3 during the first quarter. During the quarter we shipped a record 508 paid
4 Acthar prescriptions for the treatment of MS relapses. This was an
5 increase of 120% over the year ago period and 44% over the previous
6 quarter. We believe this performance is a strong signal that the sales
7 force expansion has gained traction in the MS market at a faster rate than
8 we expected.

9 * * *

10 Our promotional efforts are increasingly focused on two main
11 goals. One, convincing an increasing number of prescribers about the
12 benefits of using Acthar with their patients and two, helping doctors,
13 nurses and others in their medical practice become more effective at
14 identifying potential Acthar patients.

15 * * *

16 In addition to increased promotion by our sales reps, Acthar sales
17 are benefiting from our sponsored physician speaker programs. In these
18 programs existing Acthar prescribers present to small groups of
19 physicians their experiences using Acthar and the published efficacy and
20 safety data for Acthar in MS relapses.

21 When combined with follow up sales calls, these programs appear
22 to be a key driver of our sales growth. Recently we've been significantly
23 increasing the number of speaker programs being conducted and expect
24 to continue doing so in the future.

25 40. On July 26, 2011, Defendants caused the Company to issue a press
26 release announcing its second quarter 2011 financial results. Defendants reported net
27 income of \$13.9 million, or \$0.21 diluted EPS, and net sales of \$46.0 million for the
28 second quarter of 2011. The release stated in part:

1 “Clearly, Questcor had a terrific quarter,” said Don M. Bailey,
2 President and CEO of Questcor. “Our focus on expanding the use of
3 Acthar in the treatment of MS exacerbations drove our record second
4 quarter financial performance. Importantly, in spite of the rapid
5 expansion in the use of Acthar for MS exacerbations, we believe that the
6 prescriber base can continue to grow. Accordingly, growing MS sales
7 remains our number one priority. Also, following our early success in
8 nephrotic syndrome, we are immediately and substantially expanding our
9 nephrology selling effort.”

10 41. After issuing its second quarter 2011 financial results on July 26, 2011,
11 Defendants hosted a conference call for analysts, media representatives and investors.
12 During the call, Defendants reiterated the record financial results reported in the
13 Company’s press release and defendant Mulroy discussed the Company’s financial
14 performance in depth. Defendants Bailey, Cartt and Young further presented prepared
15 statements at the conference call and represented as follows:

16 [CARTT:] During the quarter we shipped a record 751 paid
17 Acthar prescription for the treatment of MS relapses. This was an
18 increase of 147% over the year-ago period, and 48% over the previous
19 quarter. We believe this performance is a strong signal that the sales
20 force continues to gain traction in the MS market at a faster rate than we
21 expected. In addition to rapid growth, our trends at MS are all very good
22 and indicate that we are building momentum in this key Acthar market.

23 * * *

24 So, let’s summarize. We are very pleased with the robust MS
25 prescription growth during the quarter and expect continued growth
26 during 2011 and into 2012 as a result of the continued sustained sales
27 call activity. Our early prescription trends in nephrology are surprisingly
28 strong and we are quickly expanding our sales capability in MS, which

1 will result in a dramatic increase in the number of nephrologists that we
2 can call on at the end of the third quarter, just about two months away.

3 * * *

4 [BAILEY:] Our go-forward plan is extremely simple and remains
5 to sell more Acthar. That is, gross sales in each of our key markets, MS,
6 NS and IS, and then expand our commercial effort into other Acthar on-
7 label markets and try to generate Acthar usage in those markets. In the
8 second quarter we continued our momentum and had increasing sales
9 levels combined with strong profit margins and substantial free cash
10 flow. We are continuing to focus on MS sales. The commercial team is
11 highly motivated, highly incentivized and highly productive.

12 Based on positive nephrotic syndrome script growth, we are now
13 increasing our focus on nephrotic syndrome sales and are expanding our
14 MS selling efforts. We are applying what we have learned during our
15 four MS sales force increases, so that for nephrotic syndrome we can
16 accelerate the commercial team buildout.

17 42. On October 25, 2011, Defendants caused the Company to issue a press
18 release announcing its third quarter 2011 financial results. Defendants reported net
19 income of \$22.9 million, or \$0.35 diluted EPS, and net sales of \$59.8 million for the
20 third quarter of 2011. The release stated in part:

21 "Questcor's strategy to sell more Acthar continues to generate
22 increasing net sales and earnings," said Don M. Bailey, President and
23 CEO of Questcor. "Our commercial organization is steadily expanding
24 the number of neurologists, nephrologists, and child neurologists
25 prescribing Acthar. We believe Acthar has the potential to benefit many
26 more MS, NS, IS and possibly lupus patients in the future."

27 "Our 77 person Specialty Sales Force continues to drive expanded
28 usage of Acthar as second-line therapy for MS exacerbations, a key

1 Acthar market,” commented Steve Cartt, Executive Vice President and
2 Chief Business Officer. “Furthermore, during the third quarter we
3 completed the expansion of our Nephrology Sales Force from 5 to 28
4 representatives, with all new personnel being fully trained and making
5 initial sales calls by October 1st. Despite the inherent disruption involved
6 with this expansion, paid nephrotic syndrome Acthar prescriptions
7 increased during the quarter. September was a particularly strong month
8 for both MS and NS sales.”

9 43. After issuing its third quarter 2011 financial results on October 25, 2011,
10 Defendants hosted a conference call for analysts, media representatives and investors.
11 During the call, Defendants reiterated the record financial results reported in the
12 Company’s press release and defendant Mulroy discussed the Company’s financial
13 performance in depth. Defendants Bailey and Cartt further presented prepared
14 statements at the conference call and represented as follows:

15 [CARTT:] [W]e shipped 886 paid Acthar prescription for the
16 treatment of MS relapses during the third quarter of 2011. This was an
17 increase of 174% over the year-ago period. In addition to strong script
18 growth, other positive trends in our MS business indicate that we are
19 building momentum in this key Acthar market.

20 * * *

21 Switching gears to the subject of new scientific data, several
22 Acthar-related abstracts will be presented in November at the annual
23 meeting of the America Society of Nephrology, or ASN, held this year in
24 Philadelphia. These abstracts are available on ASN’s website, [www.asn-](http://www.asn-online.org)
25 [online.org](http://www.asn-online.org). The new data provides further insight into the immune-
26 modulating and other therapeutic properties of Acthar specifically
27 relating to kidney disease.
28

1 We believe availability of this data provides further evidence for
2 the direction [sic] action of Acthar on kidney disease. Importantly, the
3 first three abstracts shown may specifically enhance our near-term
4 selling efforts in nephrology. Our emerging understanding of the
5 apparent immune-modulating properties of Acthar is also beginning to
6 encourage us to investigate the potentially broader therapeutic
7 applications of Acthar in other inflammatory and autoimmune diseases,
8 many of which are already on the product label for Acthar.

9 44. On January 11, 2011, *TheStreetSweeper.org* (“*Streetsweeper*”)
10 announced that it had initiated a short position in Questcor. *StreetSweeper* further
11 reported that it intended to issue the first article in a two-part investigative series about
12 Questcor in the following week. According to *StreetSweeper*:

13 The first article raises serious questions about the aggressive
14 marketing practices that [Questcor] has used to generate explosive – but
15 potentially unsustainable – growth in prescriptions for its only drug
16 while the second story further examines QCOR’s business practices,
17 while taking a hard look at the leaders who have struck it rich as a result
18 of the company’s controversial growth strategy.

19 45. Thereafter, Defendants went to extensive lengths to refute the claims
20 raised by *StreetSweeper* and defend the Company’s business practices. As a result,
21 Questcor’s stock continued to be artificially inflated.

22 46. For instance, on January 11, 2012, Defendants caused the Company to
23 issue a press release entitled “Questcor Pharmaceuticals Issues Statement,” which
24 stated in part:

25 Questcor Pharmaceuticals, Inc. today announced it became aware
26 that an investor blog is preparing to issue a report regarding the
27 Company’s marketing and business practices. Questcor issued the
28 following statement:

1 The Company believes that its marketing and business practices
2 are consistent with regulatory requirements and industry standard
3 practices. Questcor markets H.P. Acthar® Gel for the treatment of acute
4 exacerbations of multiple sclerosis (MS) in adults, the treatment of
5 nephrotic syndrome, and the treatment of infantile spasms in children
6 under two years of age. The Company maintains a compliance program,
7 which is led by an experienced compliance officer and includes the
8 active participation of Questcor's executive management team. Questcor
9 attributes its success to the ability of Acthar to potentially address the
10 unmet medical need associated with MS exacerbations and nephrotic
11 syndrome. The Company is committed to providing access to Acthar to
12 patients who need it, and marketing Acthar in accordance with
13 regulatory requirements and industry standard practices. Questcor plans
14 to speak with the publication to discuss the Company and its marketing
15 and business practices.

16 47. On February 22, 2012, Defendants caused the Company to issue a press
17 release announcing its fourth quarter and full year 2011 financial results. Defendants
18 reported net income of \$31.6 million, or \$0.48 diluted EPS, and net sales of \$75.5
19 million for the fourth quarter of 2011. Additionally, Defendants reported net income
20 of \$79.6 million, or \$1.21 diluted EPS, and net sales of \$218.2 million for fiscal year
21 2011. The release stated in part:

22 "Net sales growth in the fourth quarter was driven by the
23 increasing numbers of physicians who are recognizing the potential for
24 Acthar to help patients with MS and NS," said Don M. Bailey, President
25 and CEO of Questcor. "We are particularly encouraged by the growing
26 number of physicians who recognize the therapeutic value of Acthar in
27 their practices, especially for those patients who have not adequately
28 responded to other treatments."

1 48. After issuing its fourth quarter and full year 2011 financial results on
2 February 22, 2012, Defendants hosted a conference call for analysts, media
3 representatives and investors. During the call, Defendants reiterated the record
4 financial results reported in the Company's press release and defendant Mulroy
5 discussed the Company's financial performance in depth. Defendants Bailey, Cartt
6 and Young further presented prepared statements at the conference call and
7 represented as follows:

8 [BAILEY:] As we look ahead to 2012 and beyond, we believe we
9 can sustainably grow our Business due to three key factors. First, Acthar
10 provides benefits to many difficult to treat patients not responding to
11 other treatments. Second, our market penetration in terms of the total
12 number of neurologists and nephrologists prescribing Acthar, while
13 growing, remains relatively small. And third, we have assembled an
14 excellent, experienced commercial team to pursue our growth plan. Our
15 focus remains on helping patients with serious, difficult to treat medical
16 conditions.

17 * * *

18 A key priority of ours continues to be educating both physicians
19 and patients about how Acthar is a viable treatment option for MS
20 exacerbations or relapses, particularly in those patients not well served
21 by steroids, which are generally considered first line therapy by most
22 neurologists. This focus drove our year-over-year increase in the number
23 of paid Acthar prescriptions for MS. In the fourth quarter of 2011, there
24 were 945 paid and shipped Acthar MS prescriptions, up from 354 scripts
25 in the fourth quarter of 2010. This is a 167% year-over-year increase.
26 There were several factors behind this growth – positive patient
27 outcome; increasing awareness among neurologists about how best to
28 incorporate Acthar into their practices; continued excellent Acthar

1 insurance coverage for MS relapses; and the increase in productivity of
2 our MS commercial team – all combined to generate this growth.

3 * * *

4 We believe that because Acthar provides real and substantial
5 benefits to many patients who would otherwise continue to suffer the
6 effects of serious, difficult-to-treat disorders, our growth should be
7 sustainable. We are expanding the Organization and associated
8 infrastructure to address the significant growth opportunities in front of
9 us. At the same time, we are off to a good start to 2012, with January
10 MS, NS, and IS paid prescription each having a good month.

11 49. On April 24, 2012, Defendants caused the Company to issue a press
12 release announcing its first quarter 2012 financial results. Defendants reported net
13 income of \$38.5 million, or \$0.58 diluted EPS, and net sales of \$96.0 million for the
14 first quarter of 2012. The release stated in part:

15 “While our substantial NS commercial effort only began in the
16 fourth quarter of 2011, the value of NS shipped prescriptions now
17 exceeds that of MS,” said Don M. Bailey, President and CEO of
18 Questcor. “This faster-than-expected NS growth drove us to further
19 expand the NS commercial effort prior to the additional expansion of our
20 MS commercial team.”

21 50. After issuing its first quarter 2012 financial results on April 24, 2012,
22 Defendants hosted a conference call for analysts, media representatives and investors.
23 During the call, Defendants reiterated the record financial results reported in the
24 Company’s press release and defendant Mulroy discussed the Company’s financial
25 performance in depth. Defendants Bailey, Cartt and Young further presented prepared
26 statements at the conference call and represented as follows:

27 [BAILEY:] Questcor’s unconventional but simple business model
28 continues to produce excellent financial results. Shift files, net sales and

1 earnings were all up well over 100% year-over-year. We continue to
2 expand nephrologist and neurologist awareness of patient benefits from
3 Acthar, and as a result paid prescriptions continue to increase. Driving
4 our growth in the first quarter was the strong increase in paid
5 prescriptions written by nephrologists to treat patients with nephrotic
6 syndrome, a serious kidney ailment. After a successful pilot program, we
7 stepped up our nephrology commercial effort last October. The expected
8 revenues from nephrotic syndrome prescriptions are accelerating to the
9 point that, by our calculation, nephrotic syndrome scrip value now
10 exceeds MS.

11 * * *

12 [CARTT:] Insurance reimbursements for Acthar in nephrotic
13 syndrome continues to be very good, with more than 85% of private
14 insurance prescriptions covered. We attribute this continued strong
15 coverage to the severity of the health outcome if nephrotic syndrome is
16 not adequately treated, coupled with the fact that Acthar is indicated and
17 approved in this condition, and there are few other treatment options.
18 Further supporting both coverage and prescribing activity is the ongoing
19 flow of positive results coming from the various studies we are funding.
20 In fact, data from one study at the University of Toronto, is being
21 presented just this week at the Canadian nephrology society annual
22 meeting. This particular study found that about two-thirds of patients
23 with nephrotic syndrome due to idiopathic membranous nephropathy,
24 had their proteinuria drop by 50% or more, due to Acthar treatment.

25 * * *

26 [YOUNG:] As noted by the newest research analyst to cover
27 Questcor, Acthar can truly be considered a pipeline within a drug. While
28 quite rare, there are, in effect, few other successful examples of the type

1 of product. Soliris and Botox come to mind, for example. We have a
2 significant opportunity with Acthar to expand use from our three existing
3 markets that Steve just discussed to other markets that are part of the list
4 of 19 approved on-label indications. In addition, as we've been learning
5 more about the pharmacology of Acthar, including how and why Acthar
6 acts differently than steroids, there are many other new indications with
7 unmet medical needs, where we and others believe Acthar could provide
8 a significant clinical benefit. Currently, we have approximately 20
9 company-sponsored pre-clinical and clinical studies ongoing, and are
10 supporting around 20 ongoing investigator-initiated studies.

11 51. On July 9, 2012, Questcor's stock reached its relevant time period high of
12 \$57.64 per share.

13 52. On July 10, 2012, Citron issued an in-depth research report regarding
14 Questcor. Citron expanded on the *StreetSweeper* articles and further raised concerns
15 about the Company's marketing strategy and a possible generic threat to Acthar. The
16 report discussed the competitive landscape for Acthar and was critical of the
17 Company's assertions that there were significant barriers to entry into the market.
18 Citron further questioned whether there was credible scientific data to support
19 Questcor's aggressive strategy to expand the use of Acthar for indications other than
20 infantile spasms. In addition, the research report analyzed the Company's marketing
21 expenses and questioned how the drug was being marketed to doctors. The Citron
22 report further condemned Questcor for the lack of any meaningful research and
23 development being engaged in by the biopharmaceutical company. The report noted:
24 "Just the insider selling over the last year represents more cash than Questcor has
25 spent on research and development over its entire lifespan." The research report was
26 not only critical of the amount of insider selling over the past year but it was also
27 critical about its timing given the Company was buying back large amounts of
28 Company stock at the same time the insiders were selling their shares.

1 53. Despite the serious allegations raised in the Citron report, Defendants
2 continued to refute the claims and portrayed the claims as being made by a short
3 seller. As a result, Questcor's stock continued to be artificially inflated.

4 54. On July 24, 2012, Defendants caused the Company to issue a press
5 release announcing its second quarter 2012 financial results. Defendants reported net
6 income of \$41.5 million, or \$0.65 diluted EPS, and net sales of \$112.5 million for the
7 second quarter of 2012. The release stated in part:

8 "In the second quarter, we surpassed \$100 million in quarterly net
9 sales for the first time in our history," said Don M. Bailey, President and
10 CEO of Questcor. "Our strong financial results were driven by
11 increasing usage of Acthar among nephrologists and neurologists. With
12 the expansion of our Nephrology Sales Force now complete, the
13 expansion of our Neurology Sales Force nearing completion, and the
14 initial detailing effort of a small sales force in Rheumatology just getting
15 started, we are optimistic about the potential for Acthar to help an
16 increasing number of patients with serious, difficult-to-treat autoimmune
17 and inflammatory disorders."

18 55. After issuing its second quarter 2012 financial results on July 24, 2012,
19 Defendants hosted a conference call for analysts, media representatives and investors.
20 During the call, Defendants reiterated the record financial results reported in the
21 Company's press release and defendant Mulroy discussed the Company's financial
22 performance in depth. Defendants Bailey, Cartt and Young further presented prepared
23 statements at the conference call and represented as follows:

24 [BAILEY:] We made significant progress with our business in the
25 last three months. Financial performance again improved. We almost
26 doubled the number of shipped vials in the quarter, more than doubled
27 net sales, and tripled earnings from the year-ago quarter. Paid scripts
28 increased for both nephrotic syndrome and MS. We expanded two sales

1 forces and started building a third sales force in Rheumatology, using the
2 same formula that worked so well with MS and nephrotic syndrome.
3 And, we also made good progress in both our science and compliance
4 programs.

5 * * *

6 [CARTT:] Very importantly, we often hear anecdotally that
7 Acthar treatment is producing positive results for patients. This is not
8 always the case, of course; not everyone responds. But, clearly, many
9 patients are benefiting significantly from this drug, and there are few
10 other treatment options available. All these factors are contributing to the
11 rapid increase in Acthar usage in nephrotic syndrome.

12 * * *

13 Our year-over-year growth in MS paid scripts is due to positive
14 patient outcomes, increasing awareness about how Acthar can help
15 patients who are not fully benefiting from other therapies, continued
16 excellent Acthar insurance coverage for MS relapse, and the increasing
17 productivity of our MS commercial team.

18 * * *

19 [YOUNG:] As you can see by our operating results reported in
20 today's press release, we have been increasing our investment in
21 research and development to better understand the unique
22 immunomodulator and anti-inflammatory properties of Acthar Gel. Our
23 subjects – our objectives are to produce additional supporting data for
24 the commercial team for on-label indications and to expand our Acthar
25 Gel used through FDA beyond current on-label indications. Surprisingly,
26 previous owners of Acthar Gel in the pharmaceutical industry in general
27 have not invested in ACTH-based research. Therefore, there are many
28

1 research areas that still need to be assessed by our R&D group in order to
2 better understand ACTH in the clinical role of Acthar Gel.

3 * * *

4 In summary, I'd like to bring you back to my initial topic on R&D
5 expansion. As we have previously reported, our R&D efforts have been
6 and are continuing to focus on three areas. First, producing additional
7 supporting data for the commercial team for on-label indications.
8 Second, expanding Acthar Gel use beyond the existing on-label
9 indications and following FDA processes. And third, our greatest
10 priority, better understanding the unique chemical, biological, and
11 clinical characteristics of Acthar Gel. Our research results from this third
12 area, thus far, suggest that developing a generic drug for Acthar Gel is
13 very challenging. All three areas of research are intended to advance the
14 science of Acthar Gel in order to further help patients with devastating
15 autoimmune and inflammatory diseases.

16 **C. The Truth Begins to Emerge**

17 56. On September 19, 2012, Citron reported that Aetna, one of the nation's
18 largest insurers, had recently revised its policy concerning Acthar, which would
19 severely limit coverage of Questcor's primary drug. Aetna had engaged in a review of
20 the 19 indications for which the FDA had approved Acthar. Based upon its findings,
21 Aetna decided that clinical research supported only one of the 19 indications. In
22 Aetna's clinical policy bulletin issued in connection with its review, Aetna reported
23 that studies suggested that the drug is only "medically necessary" for West syndrome,
24 a rare condition that causes infantile spasms, and not for other indications, such as
25 MS, that are treated with steroids. Aetna generally only reimburses for drugs when
26 they are deemed medically necessary. According to an Aetna spokesperson, "Our
27 previous position was that this was a last-resort treatment. . . . We now state that it is
28

1 not medically necessary because there is no clinical evidence that the drug is more
2 effective than steroids.”

3 57. On this news, Questcor’s stock plummeted \$24.16 per share to close at
4 \$26.25 per share on September 19, 2012, a one-day decline of nearly 48% on high
5 volume.

6 58. Subsequently, on September 19, 2012, Defendants caused the Company
7 to issue a press release entitled “Questcor Comments on Insurance Policy Bulletin,”
8 which stated in part:

9 The Company is continuing to review the Clinical Policy Bulletin
10 related to Acthar from Aetna Inc. (“Aetna”). Currently, the Company
11 does not believe that the bulletin represents a material change in
12 insurance coverage for Acthar by Aetna. During 2012, Aetna has
13 accounted for approximately 5% of the Company’s shipped prescriptions
14 for Acthar. Based on its current assessment of the Clinical Policy
15 Bulletin, the Company does not believe that the bulletin will have a
16 material impact on the Company’s results of operations.

17 59. Then, on September 24, 2012, Defendants announced in a Form 8-K filed
18 with the SEC that the United States Attorney’s Office for the Eastern District of
19 Pennsylvania had initiated an investigation into the Company’s promotional practices.

20 60. After this news, Questcor’s stock dropped \$11.05 per share to close at
21 \$19.08 per share on September 24, 2012, a decline of 37% on high volume.

22 61. The true facts, which were known by the Defendants but concealed from
23 the investing public, were as follows:

24 (a) Defendants lacked clinical evidence to support the use of Acthar
25 for indications other than infantile spasms;

26 (b) Defendants had engaged in questionable tactics to promote the sale
27 and use of Acthar in the treatment of MS and nephrotic syndrome; and
28

1 (c) Defendants lacked a reasonable basis to make positive statements
2 about the Company or its outlook, including statements about the effectiveness of and
3 potential market growth for Acthar.

4 62. As a result of Defendants' false and misleading statements, Questcor
5 stock traded at artificially inflated levels. However, after the above revelations seeped
6 into the market, the Company's shares were hammered by massive sales, sending
7 them down 67% from their relevant time period high.

8 63. Further, as a result of Defendants' breaches of fiduciary duty and other
9 misconduct, the price of the Company's stock still has not recovered and currently
10 trades for around \$19.40 per share.

11 **DERIVATIVE AND DEMAND ALLEGATIONS**

12 64. Plaintiff brings this action derivatively in the right and for the benefit of
13 Questcor to redress the breaches of fiduciary duty and other violations of law by
14 Defendants.

15 65. Plaintiff will adequately and fairly represent the interests of Questcor and
16 its shareholders in enforcing and prosecuting its rights.

17 66. The Board currently consists of the following seven (7) directors:
18 defendants Thompson, Bailey, Blutt, Bradsher, Farrell, Silverman, and Whitcup.
19 Plaintiff has not made any demand on the present Board to institute this action
20 because such a demand would be a futile, wasteful and useless act, for the following
21 reasons:

22 (a) At all relevant times, defendants Thompson, Blutt, and Farrell
23 served as members of the Audit Committee. Pursuant to the Company's Audit
24 Committee Charter, the members of the Audit Committee were and are responsible
25 for, *inter alia*, reviewing the Company's annual and quarterly financial reports and
26 reviewing the integrity of the Company's internal controls. Defendants Thompson,
27 Blutt, and Farrell breached their fiduciary duties of due care, loyalty, and good faith,
28 because the Audit Committee, *inter alia*, allowed or permitted the Company to

1 disseminate false and misleading statements in the Company's SEC filings and other
2 disclosures and caused the above-discussed internal control failures, which resulted in
3 the improper marketing of Acthar. Therefore, defendants Thompson, Blutt, and
4 Farrell each face a substantial likelihood of liability for their breach of fiduciary duties
5 and any demand upon them is futile;

6 (b) At all relevant times, defendants Whitcup, Farrell, and Thompson
7 served as members of the Compliance Committee. Pursuant to the Company's
8 Compliance Committee Charter, the members of the Compliance Committee were and
9 are responsible for, *inter alia*, reviewing and reporting to the Board the status of the
10 Company's compliance with relevant laws, regulations, and internal procedures
11 including compliance with U.S. pharmaceutical product promotional rules and
12 regulations. Defendants Whitcup, Farrell, and Thompson breached their fiduciary
13 duties of due care, loyalty, and good faith, because the Compliance Committee, *inter*
14 *alia*, allowed or permitted the Company to engage in the illicit promotional activities
15 described herein. Therefore, defendants Whitcup, Farrell, and Thompson each face a
16 substantial likelihood of liability for their breach of fiduciary duties and any demand
17 upon them is futile; and

18 (c) The principal professional occupation of defendant Bailey is his
19 employment with Questcor as its CEO and President, pursuant to which he has
20 received and continues to receive substantial monetary compensation and other
21 benefits. In addition, according to the Company's Proxy Statement filed on March 30,
22 2012, Defendants have admitted that defendant Bailey is not independent. Thus,
23 defendant Bailey lacks independence from demonstrably interested directors,
24 rendering him incapable of impartially considering a demand to commence and
25 vigorously prosecute this action.

26
27
28

COUNT I

Against All Defendants for Breach of Fiduciary Duty for Disseminating False and Misleading Information

67. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

68. As alleged in detail herein, each of the Defendants (and particularly the Audit Committee Defendants) had a duty to ensure that Questcor disseminated accurate, truthful and complete information to its shareholders.

69. Defendants violated their fiduciary duties of care, loyalty, and good faith by causing or allowing the Company to disseminate to Questcor shareholders materially misleading and inaccurate information through, *inter alia*, SEC filings, press releases, conference calls, and other public statements and disclosures as detailed herein. These actions could not have been a good faith exercise of prudent business judgment.

70. As a direct and proximate result of Defendants' foregoing breaches of fiduciary duties, the Company has suffered significant damages, as alleged herein.

COUNT II

Against All Defendants for Breach of Fiduciary Duties for Failing to Maintain Internal Controls

71. Plaintiff incorporates by reference all preceding and subsequent paragraphs as if fully set forth herein.

72. As alleged herein, each of the Defendants (and particularly the Audit Committee Defendants) had a fiduciary duty to, among other things, exercise good faith to ensure that the Company's financial statements were prepared in accordance with GAAP, and, when put on notice of problems with the Company's business practices and operations, exercise good faith in taking appropriate action to correct the misconduct and prevent its recurrence.

1 73. Defendants willfully ignored the obvious and pervasive problems with
2 Questcor's internal controls and practices and procedures and failed to make a good
3 faith effort to correct these problems or prevent their recurrence.

4 74. As a direct and proximate result of the Defendants' foregoing breaches of
5 fiduciary duties, the Company has sustained damages.

6 **COUNT III**

7 **Against All Defendants for Breach of Fiduciary Duties for Failing**
8 **to Properly Oversee and Manage the Company**

9 75. Plaintiff incorporates by reference and realleges each and every
10 allegation contained above, as though fully set forth herein.

11 76. Defendants owed and owe Questcor fiduciary obligations. By reason of
12 their fiduciary relationships, Defendants specifically owed and owe Questcor the
13 highest obligation of good faith, fair dealing, loyalty and due care.

14 77. Defendants, and each of them, violated and breached their fiduciary
15 duties of care, loyalty, reasonable inquiry, oversight, good faith and supervision.

16 78. As a direct and proximate result of Defendants' failure to perform their
17 fiduciary obligations, Questcor has sustained significant damages, not only
18 monetarily, but also to its corporate image and goodwill.

19 79. As a result of the misconduct alleged herein, Defendants are liable to the
20 Company.

21 80. Plaintiff, on behalf of Questcor, has no adequate remedy at law.

22 **COUNT IV**

23 **Against All Defendants for Unjust Enrichment**

24 81. Plaintiff incorporates by reference and realleges each and every
25 allegation set forth above, as though fully set forth herein.

26 82. By their wrongful acts and omissions, Defendants were unjustly enriched
27 at the expense of and to the detriment of Questcor.
28

83. Plaintiff, as a shareholder and representative of Questcor, seeks restitution from Defendants, and each of them, and seeks an order of this Court disgorging all profits, benefits, and other compensation obtained by Defendants, and each of them, as a result of their wrongful conduct and fiduciary breaches.

COUNT V

Against All Defendants for Abuse of Control

84. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

85. Defendants' misconduct alleged herein constituted an abuse of their ability to control and influence Questcor, for which they are legally responsible. In particular, Defendants abused their positions of authority by causing or allowing Questcor to misrepresent material facts regarding its financial position and business prospects.

86. As a direct and proximate result of Defendants' abuse of control, Questcor has sustained significant damages.

87. As a result of the misconduct alleged herein, Defendants are liable to the Company.

88. Plaintiff, on behalf of Questcor, has no adequate remedy at law.

COUNT VI

Against All Defendants for Gross Mismanagement

89. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

90. Defendants had a duty to Questcor and its shareholders to prudently supervise, manage and control the operations, business and internal financial accounting and disclosure controls of Questcor.

91. Defendants, by their actions and by engaging in the wrongdoing described herein, abandoned and abdicated their responsibilities and duties with regard to prudently managing the businesses of Questcor in a manner consistent with

1 the duties imposed upon them by law. By committing the misconduct alleged herein,
2 Defendants breached their duties of due care, diligence and candor in the management
3 and administration of Questcor's affairs and in the use and preservation of Questcor's
4 assets.

5 92. During the course of the discharge of their duties, Defendants knew or
6 recklessly disregarded the unreasonable risks and losses associated with their
7 misconduct, yet Defendants caused Questcor to engage in the scheme complained of
8 herein which they knew had an unreasonable risk of damage to Questcor, thus
9 breaching their duties to the Company. As a result, Defendants grossly mismanaged
10 Questcor.

11 PRAYER FOR RELIEF

12 WHEREFORE, Plaintiff demands judgment as follows:

13 A. Against all Defendants and in favor of the Company for the amount of
14 damages sustained by the Company as a result of Defendants' breaches of fiduciary
15 duties;

16 B. Directing Questcor to take all necessary actions to reform and improve its
17 corporate governance and internal procedures to comply with applicable laws and to
18 protect the Company and its shareholders from a repeat of the damaging events
19 described herein, including, but not limited to, putting forward for shareholder vote
20 resolutions for amendments to the Company's By-Laws or Articles of Incorporation
21 and taking such other action as may be necessary to place before shareholders for a
22 vote a proposal to strengthen the Board's supervision of operations and develop and
23 implement procedures for greater shareholder input into the policies and guidelines of
24 the Board;

25 C. Awarding to Questcor restitution from Defendants, and each of them, and
26 ordering disgorgement of all profits, benefits and other compensation obtained by the
27 Defendants;

28

1 D. Awarding to Plaintiff the costs and disbursements of the action, including
2 reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses; and


3 E. Granting such other and further relief as the Court deems just and proper.

4 **JURY DEMAND**

5 Plaintiff demands a trial by jury.

6 DATED: November 20, 2012

THE WEISER LAW FIRM, P.C.
KATHLEEN A. HERKENHOFF (SBN
168562)

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8 
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Wayne, PA 19087
Telephone: 484/588-5516
Facsimile: 484/450-2582

21 Attorneys for Plaintiff
22
23
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25
26
27
28

VERIFICATION

I, Clarence C. Farmer, Jr., under penalty of perjury, state as follows:

I am the Plaintiff in the above-captioned action. I have read the foregoing Complaint and authorized its filing. Based upon the investigation of my counsel, the allegations in the Complaint are true to the best of my knowledge, information and belief.

DATED: 11/08/2012


Clarence C. Farmer, Jr.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge David O. Carter and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV12- 2019 DOC (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIACLARENCE C. FARMER, JR., Derivatively on
Behalf of QUESTCOR PHARMACEUTICALS, INC.

CASE NUMBER

PLAINTIFF(S)

SACV 12 - 02019 DOC (RNBx)

v.

DON M. BAILEY,
SEE ATTACHMENT A FOR ADD'L DEFENDANTS

SUMMONS

DEFENDANT(S).

TO: DEFENDANT(S):

FOR OFFICE USE ONLY

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Kathleen A. Herkenhoff, whose address is The Weiser Law Firm, P.C., 12707 High Bluff Drive, # 200, San Diego, CA 92130. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 11/20/2012By: DENISE VO
Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

FOR OFFICE USE ONLY

ATTACHMENT "A" TO SUMMONS (Defendants)

Michael H. Mulroy, Stephen L. Cartt, David Young, Virgil D. Thompson, Mitchell J. Blutt, Neal C. Bradsher, Stephen C. Farrell, Louis E. Silverman and Scott M. Whitcup,

Defendants

And

QUESTCOR PHARMACEUTICALS, INC., a California Corporation

Nominal Party

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Clarence C. Farmer, Jr., Derivatively on behalf of Questcor Pharmaceuticals, Inc.

DEFENDANTS

Don M. Bailey, see attachment for add'l defendants

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Kathleen A. Herkenhoff, THE WEISER LAW FIRM, P.C.
12707 High Bluff Drive, # 200, San Diego, CA 92130
Phone: 858-794-1441

Attorneys (If Known)**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Jurisdictionally under U.S.C. Sec 1332(a)(2) and Jurisdictionally under U.S.C. Sec 1367(a)**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input checked="" type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: **SACV 12 - 02019 DOC (RNBx)**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes
 If yes, list case number(s): SACV12-01716DMG(FMOx), SACV12-01718DMG(FMOx), SACV12-01753DMG(FMOx), SACV12-01754DMG(FMOx)

SACV12-01759DMG(FMOx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Pennsylvania

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	San Mateo County, San Diego, New York, Florida

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Kathleen A. Hertenberg Date 11-20-2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

ATTACHMENT "A" TO CIVIL CASE COVER SHEET (Defendants)

Michael H. Mulroy, Stephen L. Cartt, David Young, Virgil D. Thompson, Mitchell J. Blutt, Neal C. Bradsher, Stephen C. Farrell, Louis E. Silverman and Scott M. Whitcup,

Defendants

And

QUESTCOR PHARMACEUTICALS, INC., a California Corporation

Nominal Party